

**REMARKS / ARGUMENTS**

**1. Response to December 23, 2008 Final Office Action**

The Assignee thanks the Examiner for the thorough and extensive review of this application. The Assignee further thanks the examiner for the removal of the rejections based on 35 U.S.C. 102 and 112 of the prior office actions. The referenced Final Office Action, however, rejects pending claims 1-23 over a primary reference to *Kasik* (US 6,448,898) in combination with *Hershey* (US 6,108,524) and/or *Hassett* (US 5,347,274) under 35 U.S.C. 103(a).

Assignee respectfully traverses the rejection of the independent claims 1 and 12 and associated dependent claims. Assignee does not accede to the Final Office Action's characterization of *Kasik* in combination with *Hershey* and/or *Hassett* as applied to the claims, and Assignee respectfully reserves its right to disagree with that characterization in the future.

As previously discussed, *Kasik* teaches a refuse collection system for a refuse container at a single known location on a generally pre-established schedule. As described in general from col. 1, l. 58 through col. 2, l. 49 in *Kasik*, the collection service takes the steps to empty the container at the known location. To increase efficiency of service, *Kasik* provides a flag to signal when a container has been accessed and when it has been emptied. The operator can empty only those containers having a signaling device which indicates the particular container has been accessed to add waste to the container, and bypass others that have not been accessed to add waste. The billing to such locations can be based on the number of times the containers at that location have been serviced and emptied. To verify the access, steps are taken, preferably automatically, to identify the subscriber (e.g., by the known address of the container, which does not change) and to store data corresponding to each transaction.

In more detail, *Kasik* describes tracking identification of the subscriber (customer) such as by address, which can include the address or other markings on the container to identify the

particular subscriber to which the container is assigned. (Col. 6, ll. 53-64; col. 7, ll. 5-34.) A data receptor such as a CCD camera is positioned to inspect the containers addressed by the service vehicle, such as on the lifting mechanisms to capture the video record of the service at that location and time. (Col. 8, l. 35-col. 9, l. 30.) When the automatic reading and processing does not occur, an alarm can be sent to the operator for manual entry. (Col. 9, ll. 30-50.) The stored data can be downloaded and transferred to a central processing unit, which can be processed to produce customer billing according to the number of times the subscriber's container has been emptied, the weight of the contents, and so forth which can reflect the actual cost of the services performed. (Col. 10, ll. 61-67.)

Thus, while *Kasik* relates to a system for processing waste containers, it does not track a location of a waste storage unit. *Kasik* assumes and does not disclose otherwise that the identified container is *at the assigned and proper location*. In fact, if the container was inadvertently at another location, *Kasik*'s system does not have a disclosure or method to be able to track differently and the service on that container apparently would be billed to a different customer and create an erroneous billing. As the Examiner agreed in the Final Office Action, *Kasik* simply has no teaching for tracking the whereabouts of a container.

As previously discussed, the Assignee has amended the two independent claims to note that the containers can be a variety of locations and the contemplated invention tracks the whereabouts of the containers at the possible variety of locations. Thus, in contrast to *Kasik*, the location of the container is tracked, so that the container can be located and the proper billing can be performed, the container can be recovered and other aspects. Such aspects are disclosed throughout the application, including Figures 11, 15, and 19 as exemplary, and at pg. 7, ln 26-30, pg. 9, ln 14-28, pg 19, ln 5-30, pg 21, ln 27 to pg 22, ln 8, and pg 24, ln 5-26, as exemplary.

In the Final Office Action, *Hershey* is referenced in combination with *Kasik* in an attempt, using prohibited hindsight, to overcome the shortcomings of *Kasik* as it relates to the present invention. Although in a generic sense *Hershey* discloses the tracking of assets (goods,

vehicles, containers) using an asymmetrical high frequency messaging system, (e.g., Col. 1, ll. 7-11; Col. 2, ll. 14-63), *Kasik* in view of *Hershey* would never teach or enable one skilled in the art to practice the present invention without Assignee's application as a road map or undue experimentation.

First, *Hershey* discloses various aspects of tracking a container or an asset by using asymmetrical transmission system, (Col. 3, l. 59 – Col. 4, l. 32; Col. 5, l. 62 – Col. 6 l. 45), which tests frequencies before transmitting data on the location of an asset, (Col. 7, ll. 4-51), i.e., a rail car or container on a train. (Col. 4, ll. 59-65). *Hershey* further discloses multiple receivers in communication with each other to minimize power consumption and to identify the unit with the most power to transmit the data on the various container or assets in communication with each other in a specific area, namely on a moving train, to receivers spaced across some geographic area, such as the continental United States. (Col. 5, l. 43 – Col. 6, l. 2)

Giving the combination of *Kasik* and *Hershey* the broadest conceivable meaning would never teach or result in the claim element of “a waste management electronic base system ... adapted to process waste management data for tracking a waste storage unit at a variety of locations...” In contrast, the combination of *Kasik* with *Hershey* is inappropriate in that the two references teach away from each other. *Kasik* has no need of the system of *Hershey* and *the application of Hersey to Kasik use would be counterproductive and wasteful*, since *Kasik*'s containers are situated at known addresses and do not need tracking. Indeed, for the billing of *Kasik* to even function, this underlying concept requires that the identified container is *at the assigned and proper location*.

Stated differently, the combination of *Kasik* and *Hershey* simply would not teach or enable one skilled in the art to practice the present invention without undue experimentation. For example, the technologies disclosed in *Kasik* (recording stops at predetermined locations with operator oversight) and *Hershey* (automated tracking of moving assets using asymmetrical transmissions and geographically dispersed high frequency receivers) would not logically

integrate with each other. Thus, one skilled in the art would not readily appreciate or envision that some predictable or foreseeable result would occur from the combination of *Kasik* and *Hershey*, or that the disclosures of *Kasik* and *Hershey* are even compatible with each other. There is simply no logical or reasonable basis, teaching, suggestion, motivation, or even hint to combine or attempt to combine *Kasik* and *Hershey* to achieve a predictable result.

Further, as the Examiner admitted, *Kasik* does not teach the tracking of a waste container at multiple locations. Although *Hershey* generically teaches tracking an asset on a train moving across the continental United States where the multiple assets have a tracking device in communication with the other local tracking devices, *Hershey*'s primary teaching and claimed invention relates to asymmetrical transmission of data from a device on an asset that receives a GPS signal where the transmitted data is sent on three channels to high frequency receivers dispersed across a geographic area. The purpose and teachings of *Hershey* are not applicable or even translatable to the present invention for tracking a solid waste container at multiple locations.

Next, neither *Kasik* nor *Hershey* discloses allowing onsite input at a customer facility from preprogrammed queries regarding the waste removal. First, *Hershey* does not have an operator, let alone any operator input involved in any aspect of the automated asymmetrical transmission system for tracking assets. Furthermore, although *Kasik* discloses an alarm to the operator if the automatic reading of the container's identification is not able to identify the container or record the service provided, there is no teaching of a preprogrammed system of queries. As the term is used herein, "preprogrammed queries" includes a sequence of steps that guide the operator through a defined set of questions, instructions, or options. Such aspect is found throughout the application, including Figures 5, 7-16, 19, 21, 22-24, and 26-27 as exemplary, and at pg. 7, ln 8-20, pg. 14, ln 25 to pg. 15, ln 11, pg. 16, ln 11-23, pg. 17, ln 30 to pg. 18, ln 5, pg. 18, ln 14-27, pg. 20, ln 1-22, and pg. 21, ln 15-26, as exemplary. The complexities of certain aspects of the system and proper recordation of desired or necessary information are assisted by the preprogrammed system of queries. *Kasik* has no teaching for

such preprogrammed queries, and in contrast discloses automatic recognition of the container, weight, and other characteristics needed. Only if there is an error, does *Kasik* suggest manual input of any information. That being said, in no event does *Kasik* disclose guiding the operator through a series of preprogrammed queries.

Separate and apart from the other distinctions of *Kasik* in view of *Hershey*, neither *Kasik* nor *Hershey* teaches billing a customer at the site, as claimed in dependent claims 11 and 19. *Kasik* teaches gathering information for billing and downloading the information, but fails to disclose generating an invoice at the customer site. In fact, *Kasik* teaches using the collected information over time “of the services [plural] performed” (col. 10, l. 67) that apparently creates an aggregated bill from multiple service times. *Hershey* has no billing references at all.

Additionally, *Kasik* in view of *Hershey* does not have any teaching of a manifest that is required for a governmental tracking of certain types of industrial and commercial wastes that prescribes certain specific types of inputs. The system is adapted to comply with the requirements as claimed in claims 3 and 17, and thus necessarily obtain and input the data necessary for such requirements, which includes the type of waste. Neither *Kasik* nor *Hershey* has any teaching for determining the type of waste, among other aspects.

For these and other reasons, the Assignee respectfully submits that *Kasik*, even in view of *Hershey*, does not teach, show, suggest, or make obvious the present invention. The Examiner is requested to reconsider the claims as presented and allow claims over *Kasik* in view of *Hershey*.

Finally, Assignee respectfully traverses the rejection of the dependent claims 2 and 16. Assignee does not accede to the Office Action’s characterization of *Kasik* in view of *Hershey* and in further view of *Hassett* as applied to the claims, and Assignee respectfully reserves its right to disagree with that characterization in the future. In light of the distinctions of *Kasik* and/or *Hershey* above as to the independent claims 1 and 12, it is believed that the dependent claims 2 and 16 are patentable for at least the same reasons and the rejection is mooted.

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**2. Conclusion**

Claims 1-23 are currently pending in this application and are presented with the above remarks for the Examiner. Assignee submits that each claim presented herein is patentable. A timely notice of allowance is respectfully requested.

Assignee thanks the Examiner for her consideration and effort on this file. If there are any questions or if additional information is needed, the Examiner is invited to telephone or email the undersigned.

Respectfully submitted,

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